

John V. Wiseman
Manager Technical Services and
Environmental Control
317-875-4130

COPY

INLAND
CONTAINER
CORPORATION



US EPA RECORDS CENTER REGION 5



408481

January 8, 1987

VIA FEDERAL EXPRESS

Ms. Susan Swales

~~Mr. Joseph DeVuono~~

Ms. Susan Swales
Waste Management Division
U.S. EPA Region V
230 South Dearborn Street
Chicago, Illinois 60604

Re: Sites Connected with Steve Martell
(Your Reference: 5HE-12)

Dear Mr. DeVuono and Ms. Swales:

On or about October 17, 1986, Mr. Basil G. Constantelos, Director, Waste Management Division, United States Environmental Protection Agency ("EPA"), Region 5, wrote Inland Container Corporation ("Inland") with respect to "sites connected with Steve Martell" ("Martell Sites"). Mr. Constantelos' letter states that Inland should correspond with you with respect to furnishing certain information requested by his letter.

Inland is not aware of any actual or threatened release of a hazardous substance from Martell Sites with respect to Inland such as would authorize EPA to invoke either the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 3001, et seq., or the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601, et seq., and, therefore, Inland is not aware of any valid legal or factual reason for requiring Inland to furnish any of the information requested in Mr. Constantelos' letter. Based on its investigation, described later in this letter, Inland did not deposit any hazardous (or non-hazardous, for that matter) substances with Mr. Martell or with any of the other waste removal entities or persons listed in Mr. Constantelos' letter.

Inland believes that any actual or threatened release of a hazardous substance from the Martell Sites were caused solely by acts or omissions of others. Consequently, pursuant to RCRA and CERCLA, EPA should seek information from and impose any costs for study or cleanup of the Martell Sites on others,

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including but not limited to, the owners and operators of the sites and generators of hazardous wastes.

Mr. Constantelos' letter asks Inland to do the following things:

- (1) Provide copies of all shipping documents, or other business documents including receipts, and contracts relating to the transportation, storage and/or disposal of waste materials or substances at any of the sites listed in an Attachment to the letter.

- (2) Provide copies of all shipping documents, or other business documents including receipts, and contracts, relating to the transportation, storage and/or disposal of waste materials or substances by business organizations related to Steve Martell or the sites connected with Steve Martell.

- (3) Identify and describe all business transactions with Mr. David Head, former Secretary-Treasurer for U.S. Scrap Corporation and/or Steve Martell, relating to the transportation, storage and/or disposal of waste materials or substances at the sites listed in the Attachment.

- (4) Describe what Inland requested and/or received from Mr. Martell, Mr. Head, or from any of the business organizations regarding the ultimate disposal location of Inland's waste materials.

- (5) Provide the generic, common or trade name and the chemical composition and character (i.e. liquid, solid, sludge) of the materials transported to, stored and/or disposed of at the sites or by the business organizations listed in the Attachment.

- (6) For each waste material identified in response to the above questions, state the total volume in gallons for liquids and in cubic yards for solids, for which Inland arranged disposal and list the dates when disposal occurred and the ultimate destination where disposal occurred.

- (7) Provide copies of all records, including analytical results, and material safety sheets, which indicate the chemical composition and/or chemical character of the waste material(s) transported to, stored, or disposed of at the sites or by the business organizations listed in the Attachment.

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organizations listed in the Attachment. Identify the type of transportation used (i.e. tankers, dump trucks, drums), and the person with whom such arrangements were made (name, position, company).

(9) Identify the transporter of Inland's hazardous waste and provide former and current addresses.

(10) Provide a detailed description of Inland's daily disposal practices with regard to hazardous substances during the relevant time period of 1955 through 1980.

(11) Provide a list and description of all liability insurance coverage that is or was carried by Inland, including any self-insurance provisions that relate to hazardous substances and to the sites listed in the Attachment. Include copies of all these insurance policies.

As indicated previously, Inland disagrees with any presumption in Mr. Constantelos' requests that wastes generated by Inland are involved in any actual or threatened release of a hazardous substance from the Martell Sites. Despite requests to EPA to furnish to Inland any evidence EPA possesses connecting Inland with any of the Martell Sites, EPA has not furnished any such information. Inland has, nevertheless, cooperated with the EPA information request by conducting an extensive investigation. You should not, however, consider anything in this letter as any (1) waiver of any legal position or right that Inland has or might have, (2) admission against interest by Inland, or (3) acceptance by Inland of any legal or financial responsibility to any public or private person or entity with respect to the Martell Sites. In addition, Inland reserves its rights under any applicable statutes and case law to recover its expenses incurred as a result of this information request or any further proceedings, including its rights to recover reasonable attorney fees, and any other rights or remedies Inland may have against the United States, EPA, or others. Subject to the foregoing, the following responses to each of the above requests are submitted:

(1) As far as it has been able to determine from its investigation, Inland did not transport, store or dispose of any waste materials of any kind at any of the Martell Sites listed with Mr. Constantelos' letter.

(2) As far as it has been able to determine from its investigation, Inland did not transport, store, or dispose of any waste materials of any kind with any of the business organizations related to Steve Martell or at the Martell Sites listed with Mr. Constantelos' letter.

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(3) As far as it has been able to determine from its investigation, Inland had no business transactions with Mr. Head or Steve Martell.

(4) See answers to Numbers 1 and 2 above.

(5) See answer to Number 2 above.

(6) See answer to Number 2 above.

(7) See answer to Number 2 above.

(8) See answer to Number 2 above.

(9) Because there is no evidence that Inland ever disposed of any waste materials of any kind at any of the Martell Sites or with any of the organizations connected with Steve Martell, and because Inland has many plants in a number of states, this question is both irrelevant and overly burdensome. For these reasons, unless and until EPA can provide documentation that connects Inland wastes with any of the Martell Sites or organizations connected with Steve Martell, there is no basis for requesting this information from Inland and Inland does not intend to incur any expense and burden greater than it already has sustained in the absence of such documentation.

(10) See answer to Number 9 above.

(11) See answer to Number 9 above. Inland is not under any conceivable circumstance liable for any costs under RCRA or CERCLA in this matter, and for this and other reasons there appears to be no basis for requesting information about or policy copies reflecting insurance Inland may own concerning hazardous substances.

The investigation conducted by Inland includes a search of the records maintained in its accounts payable and environmental control departments and for the only Inland plant in the greater Chicago area. The accounts payable records go back to 1955. Inland also talked with plant personnel at the Chicago area Inland plant.

In searching its documents, interviewing its personnel, and responding to this request, Inland has endured considerable expense and burden without finding any information which connects Inland with any of the Martell Sites. As a result, Inland repeats its request, previously made to you on behalf of Inland by Mr. George M. Plews of Baker & Daniels, that EPA furnish Inland with any documents or evidence EPA has which indicate that Inland has any connection to any of the Martell Sites. If EPA

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Ms. Susan Swales

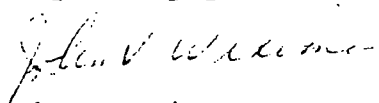
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has no such documents and fails to furnish any such information, putting Inland to the expense and burden of responding to this letter has clearly been an inefficient and abusive exercise of EPA's regulatory authority and wasteful of Inland's resources. Inland protests against such a fishing expedition in the strongest terms.

If you have any questions regarding this letter, please contact me.

Very truly yours,

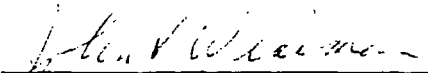

John V. Wiseman, Manager,
Technical Services and
Environmental Control

cc: George M. Plews, Esquire

Certification

I certify that the information in this letter is true and accurate to the best of my knowledge and belief.

INLAND CONTAINER CORPORATION

By 
John V. Wiseman, Manager
Technical Services and
Environmental Control

Mr. Joseph DeVuono
Ms. Susan Swales

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STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, the undersigned, a Notary Public in and for the State of Indiana, personally appeared John V. Wiseman, Manager, Technical Services and Environmental Control, of Inland Container Corporation, who acknowledged his execution and certification of the foregoing letter to be his voluntary act and deed.

IN WITNESS WHEREOF, I have set my hand and official seal this 8th day of January, 1987.

Joyce M. Miller
Notary Public

Joyce M. Miller
Printed Name

My commission expires:

July 25, 1987

My county of residence:

Marion